PET-5 Libya (E)

Department of State TELEGRAM

EXCISE

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ACTION AF-19

see Agm 76 Tripoli

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DEPARTMENT OF STATE, A, C, O, M, R
REVIEWED BY CJ DATE 6/22/81
PORTIONS DENIED AS INDICATED

R 041518Z MAY 71
FM AMEMBASSY TRIPOLI
TO SECSTATE WASHDC 7682
INFTFRUESZT/AMEMBASSY BENGHAZI 3470

C O N F I D E N T I A L TRIPOLI 875

Tripoli 5/4/71

SUBJ: AMENDMENT OF PETROLEUM LAW AND ACCELERATED LIBYANIZATION OF OIL COMPANIES: DECREED

1. RCC DECREE ISSUED MAY 3 ADDED NEW PARAGRAPH TO ARTICLE 22 OF BASIC 1955 PETROLEUM LAW PROVIDING FOR ADDITIONAL PENALTY OF 5000 POUND FINE PER OFFENSE FOR CONTRAVENTION OF PROVISIONS OF PETROLEUM LAW, AS WELL AS FOR RESTITUTION BY CONCESSIONAIRE IN EVENT OF WASTE OR LOSS OF HYDROCARBONS OR DAMAGE TO OIL RESERVOIR. FINES TO BE IMPOSED UPON DECISION OF MINISTER OF PETROLEUM AND
LCISIONS UNDER THIS AMENDMENT TO BE APPEALED ONLY TO LIBYAN SUPREME COURT.

2. AT SAME TIME, MINISTRY OF PETROLEUM ISSUED ORDER FOR LIBYANIZATION OF SENIOR OIL COMPANY POSITIONS IN A) SERVICE AND TRAINING DEPARTMENTS BY JULY 1971, B), PERSONNEL DEPARTMENTS BY DECEORER 1971, AND C) PUBLIC RELATIONS DEPARTMENTS.

3. COMMENT: THESE ACTIONS RELATE TO THREE LONG-STANDING LARG OBJECTIVES: IMPLEMENTATION OF CONTROLS OVER OIL COMPANIES' OPERATING PGHEDURES, ESPECIALLY REGULATION 8 WHICH DEFINES CONSERVATION PRACTICES; BRINGING COMPANIES UNDER EXCLUSIVE

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JURISDICTION OF LIBYAN COURTS; AND ACCELERATING LIBYANIZATION OF SENIOR COMPANY POSITIONS.

4. LARG APPARENTLY CONSIDERS THAT COMPANIES' TACIT COMPLIANCE WITH REGULATION 8 AND ITS ACCEPTANCE AS STANDARD OF PERFORMANCE FOR EXPLORATION PROGRAMS REQUIRED UNDER COMPANY-LARG AGREEMENTS SIGNED APRIL 2 PROVIDES BASIS FOR ESTABLISHMENT OF PENALTIES WHICH MAY BE ASSESSED AGAINST COMPANIES UNDER REGULATION 8. ALTHOUGH REGULATION NEVER HAS BEEN FORMALLY ACCEPTED BY COMPANIES AS REQUIRED BY ARTICLE 16 OF CONCESSION AGREEMENTS (SCHEDULE TWO OF PETROLEUM LAW). PERHAPS MORE IMPORTANTLY, PROVISION FOR EXCLUSIVE JURISDICTION BY LIBYAN COURT OVER ENFORCEMENT OF NEW PANALTIES SEEMS TO REFLECT LARG'S VIEW OF CONCESSION AGREEMENTS AS ADMINISTRATIVE CONTRACTS, DESPITE PROVISIONS FOR INTERNATIONAL ARBITRATION IN PETROLEUM LAW (ARTICLE 20) AND CONCESSION AGREEMENTS (ARTICLE 28). COMPANIES EXPECT TO ARGUE, AS THEY HAVE WITH RESPECT TO REGULATION 8, THAT AMENDMENT TO ARTICLE 22 IS INAPPLICABLE TO EXISTING CONCESSIONS WITHOUT MUTUAL CONSENT AS PROVIDED UNDER CLAUSE 16 OF CONCESSION AGREEMENTS. [redacted] S1

[redacted] BY THESE MEANS, LARG, IN EFFECT, IS APPROPRIATING RIGHT OF UNILATERAL AMENDMENT AND APPLICATION OF PETROLEUM LAW AND REGULATIONS TO ITS PRIOR AGREEMENTS NOTWITHSTANDING. AMENDMENT ALSO IS INDICATION THAT LARG INTENDS TO HAVE AVAILABLE AMPLE MEANS FOR COERCING COMPANIES IN EVENT COOPERATION, TO WHICH DEPUTY PRIMIN JALLUD HAS ALLUDED SINCE SIGNING OF NEW FINANCIAL AGREEMENTS, IS NOT FORTHCOMING.

5. MINISTRY OF PETROLEUM DECISION ON LIBYANIZATION [redacted] S1

[redacted] SUBSTANTIAL AREA OF AGREEMENT ON ACCELERATED LIBYANIZATION HAD BEEN REACHED PRIOR TO ISSUANCE OF MINISTRY'S ORDER. WHILE ORDER GOES BEYOND WHAT COMPANIES WERE PREPARED TO ACCEPT WILLINGLY [redacted] S1

[redacted] COMPANIES, HOWEVER, PROBABLY WILL STRIVE TO RETAIN MANAGERIAL CONTROL AND COMPETANCE IN SKILLS NOT AVAILABLE FROM THEIR LIBYAN EMPLOYEES BY MOVING

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SOME OF THESE ACTIVITES OFFSHORE WHILE COMPLYING WITH LETTER OF NEW ORDER.

6. TEXT OF PETROLEUM LAW AMENDMENT TO BE SUBMITTED BY POUCH.

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